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ABSTRACT

This framework sets forth detailed proposals that are crucial to eliminating the epidemic of childhood lead poisoning in the United States. Private housing units can and must be made lead-safe, and this framework is designed to achieve that goal through specific requirements for property owners, a workable schedule, and mechanisms that reinforce and reward responsible action. Chapters 1 and 2 provide an introduction and an overview of the hazards of lead-based paint. Chapter 3 describes the universe of housing in the United States and the objectives that guided the framework's design. Chapter 4 details requirements for private property owners, which include maintenance practices, deadlines for hazard evaluation and control, and monitoring requirements. Chapter 5 describes how most private housing units can be made lead-safe in response to effective private-sector forces, while chapter 6 emphasizes the importance of state and local enforcement. Chapter 7 calls for insurers, lenders, appraisers, and the judicial system to reinforce action by owners. Chapter 8 presents a summary of the roles and responsibilities of all key players. Two appendixes provide a list of the members of the technical advisory committee and a list of 27 references. (MDM)

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# A Framework For Action

# To Make Private Housing Lead-Safe

## A Proposal to Focus National Attention

## June, 1993

PS 022112

**Alliance To End Childhood Lead Poisoning**

**The National Center for Lead-Safe Housing**



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# A Framework For Action
# To Make Private Housing Lead-Safe

A Proposal to Focus National Attention

June, 1993

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In carrying out this project, the Alliance convened a Techincal Advisory Committee composed of national, state, and local experts with experience in many fields and disciplines. The members of this Technical Advisory Committee are listed in Appendix A. They participated in the discussion and review process at various stages of the Framework's production, between January and June, 1993. While the Alliance expresses its gratitude to these knowledgeable and talented individuals, the Alliance bears responsibility for the contents and recommendations of this Framework.

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The National Center for Lead-Safe Housing joins the Alliance in endorsing this Framework. National Center staff and directors were instrumental in providing significant input and critical review during the course of the project. The Fannie Mae Foundation enabled the creation of the National Center with a $5.5 million grant in 1992. Proceeds of the Fannie Mae Foundation grant also provide general support for the Alliance.

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## A FRAMEWORK FOR ACTION TO MAKE PRIVATE HOUSING LEAD-SAFE

### EXECUTIVE SUMMARY

This Framework sets forth detailed proposals that are critical to eliminating the epidemic of childhood lead poisoning. Because this Framework's elements affect all those directly or indirectly involved in residential housing, it bears careful review. Your comments and reactions are needed. After broad review and dialogue with many groups, this Framework will be issued in final form in 1994. It is hoped that a wide range of groups will join in endorsing the final Framework.

Overview

Childhood lead poisoning has long been viewed as an intractable social problem. With over half the U.S. housing stock containing some lead-based paint, the sheer magnitude of the problem has discouraged action. The diffusion of responsibility among many public and private sector interests has further frustrated effective prevention efforts.

In the past two years, however, the landscape has changed radically. Amendments to federal law have established a strategic framework to set priorities, target resources, and make prevention efforts more workable and cost-effective. At the same time, forces have been set in motion that command the attention of all those involved in housing, real estate, insurance and finance. Recognition has emerged that the hazards of lead-based paint in private housing must be confronted now, as the consequences of inaction will inevitably be damaging and disruptive.

This Framework shows how the private U.S. housing stock can be made lead-safe -- systematically and cost-effectively. Attention is focused first on units posing the greatest hazard, and strategies are designed to meet the special needs and opportunities of different categories of housing. Specific duties are prescribed for property owners to resolve the current confusion over legal liability and standards of care. The Framework further defines the roles and responsibilities of key public and private sector actors critical to reinforcing owners' responsible behavior.

The benefits of making U.S. housing lead-safe far outweigh the costs. Preventing lead poisoning reduces health care and special education costs and sends children to school "ready to learn." Many abatement strategies, such as window replacement, also extend a housing unit's useful life, add value, and save energy.

The Scope of the Problem

Federal agencies estimate that between 10 and 15 percent of U.S. preschoolers are lead poisoned, the major cause of which is lead-based paint and lead-

contaminated dust in older housing. HUD estimates that some 57 million pre-1978 housing units contain some lead-based paint. However, the mere ***presence*** of lead-based paint does not necessarily introduce a hazard. Children are poisoned by being ***exposed*** to lead, the most common pathway of poisoning being the ingestion of lead in interior surface dust.

Lead poisoning affects children across all socio-economic strata and in all regions of the country. However, because LBP hazards are most severe in older, dilapidated housing, minorities and the poor in inner-cities are disproportionately impacted. In many communities, over half the young children suffer from lead poisoning.

Mounting Pressure for Action

Powerful forces external to the world of housing are building pressure for residential property owners, lenders, and insurers to make units lead-safe.

- In October 1991, the Centers for Disease Control changed the definition of lead poisoning based on mounting scientific evidence. This change resulted in a 10-fold increase in the number of children recognized as poisoned.

- In the past, only about 10 percent of children had been tested for lead poisoning. In 1991 CDC called for universal screening of all young children. In 1992 Medicaid required children to be tested for lead poisoning. In 1993 the American Academy of Pediatrics called for routine blood lead screening. Inevitably, increased blood lead testing identifies more poisoned children.

- Public awareness of childhood lead poisoning continues to build due to media attention, increased screening, and national education efforts. In October 1994, real estate notification and disclosure requirements take effect for all sale and rental transactions. Home buyers and consumers are increasingly demanding action to make units lead-safe.

- Tort litigation against landlords has also been increasing, with substantial damage awards in many cases. As more children are identified as poisoned through universal screening, these pressures will further increase. Confusion over landlord liability and appropriate standards of care has already prompted many liability insurers to consider limiting coverage.

Recent Developments Set the Stage

In October 1992, the most far-reaching, ambitious and enlightened piece of federal legislation dealing with lead-based paint hazards was enacted (P.L. 102-550). Title X, as it is commonly known, mandates a number of actions which are fundamentally changing the approach to lead-based paint hazards in U.S. housing.

- A new framework moves beyond the presence of lead-based paint to focus attention at controlling lead-based paint hazards -- using both short-term and long-term strategies. This strategic framework permits priorities to be established and resources to be targeted cost-effectively.

- Specific deadlines and requirements are established for lead hazard evaluation and control in federally owned, insured, and assisted housing. At the same time, federal resources for correcting lead-based paint hazards in private housing are substantially increased.

- Clear mandates are established to ensure quality control of the contracting industry, with requirements for contractor licensing, worker training and protection, laboratory certification, health-based standards, and performance requirements for testing devices and abatement products.

Highlights of this Framework For Action

Private U.S. housing units can and must be made lead-safe. This Framework is designed to achieve that goal through specific requirements for property owners, a workable schedule, and mechanisms that reinforce and reward responsible action.

***Chapters One and Two*** provide an introduction and overview of the hazards of lead-based paint in private housing and describe the current landscape. ***Chapter Three*** describes the universe of U.S. housing, critical differences among housing categories, and the objectives which guided the Framework's design.

***Chapter Four*** details requirements for private property owners. These include essential maintenance practices, triggers and deadlines for lead-based paint hazard evaluation and control, monitoring requirements, and Certificates of Lead-Safety, which provide owners with documentation of compliance with all requirements.

***Chapter Five*** describes how most private housing units can be made lead-safe in response to effective private-sector forces and discusses the critical role of public subsidies for economically distressed units, as well as the significance of new strategies aimed at matching families with young children to lead-safe units.

***Chapter Six*** emphasizes the importance of state and local enforcement, including special strategies to address economically distressed units and to guarantee protection to lead-poisoned children. ***Chapter Seven*** calls for insurers, lenders, appraisers, and the judicial system to reinforce action by owners.

***Chapter Eight*** provides a summary of the roles and responsibilities of all key players: property owners, liability insurers, lenders, appraisers, abatement contractors, inspectors, risk assessors, remodeling contractors, tenants, parents, state and local governments, federal agencies, and the judicial system.

## CHAPTER I
## INTRODUCTION AND OVERVIEW

### A. Nature of the Health Hazard

Childhood lead poisoning is "the No. 1 environmental health hazard facing American children," eclipsing all other environmental health hazards. According to the Centers for Disease Control and Prevention (CDC), 10 to 15 percent of preschoolers are affected, making lead poisoning the foremost preventable disease of childhood. Even at low levels, lead poisoning in children causes reductions in IQ and attention span, reading and learning disabilities, hyperactivity, and behavior problems. These effects can be irreversible, affecting success in school and performance later in life.

Although lead is ubiquitous in industrial society, the foremost cause of childhood lead poisoning in the U.S. is lead-based paint (LBP) and lead-contaminated dust in older houses. Lead poisoning afflicts children across all socio-economic strata and in all regions of the country. However, because LBP hazards are most severe in older, dilapidated housing, people of color and the poor in inner-cities are disproportionately impacted. In many communities, over half the young children suffer from lead poisoning.

Lead was banned from residential paint in 1978, but fully three-quarters of pre-1978 housing units contain some LBP -- an estimated 57 million privately-owned units. The mere presence of LBP does not necessarily present a condition that requires immediate action. Children are poisoned by being *exposed* to lead, and the most common pathway of poisoning is the ingestion of lead found in interior surface *dust.* Children can also be poisoned by eating lead paint chips, by ingesting lead-contaminated dirt, and by being exposed to other sources through other pathways. Renovation and remodeling projects that disturb LBP can also generate significant lead dust hazards and frequently cause poisonings.

### B. Shift to Primary Prevention

Historically, our approach to childhood lead poisoning has been reactive. After a child has been identified as poisoned (through a blood test), action may be taken to investigate the home environment to identify and address lead hazards. In public health terms, this "after-the-fact" intervention is termed "secondary prevention."

There are obvious, compelling medical and humanitarian reasons to test all young children's blood lead levels and to respond to those found poisoned. This approach provides epidemiologic and some prevention benefits by identifying and providing for the control of demonstrated immediate hazards to which the same

children, their siblings, and playmates might subsequently be exposed. However, relying solely on the presence of poisoned children to identify housing that contains lead hazards is *not* prevention, in that it postpones action until after the damage is done. Moreover, the reactive, child-by-child and house-by-house approach makes for an inefficient use of resources in the long run. Unfortunately, the high prevalence of childhood lead poisoning and a lack of resources have prevented many local programs from mounting true primary prevention efforts. A "primary prevention" approach emphasizes identifying and correcting LBP hazards in housing *before children are poisoned,* shifting the focus from the poisoned child to the environmental exposure source -- most often, the child's home. A consensus has evolved among health, housing, and environmental leaders that, in addition to universal blood lead screening, public policy must be redirected to primary prevention.

*Primary prevention shifts the focus from the poisoned child to identifying and correcting LBP hazards in housing.*

C. Benefits of Primary Prevention

Federal studies have made clear that the direct benefits of preventing childhood lead poisoning far outweigh the costs of abating LBP hazards. Preventing the disease avoids expensive chelation therapy (a painful medical intervention), reduces health care costs, and advances our national education goal of sending children to school "ready to learn." A decrease of five points in mean IQ can double the number of children requiring special education, one year of which typically costs as much as the one-time expense of making an apartment lead-safe for all current and future occupants. Larger societal benefits include increased earnings, a more competitive workforce, and possibly even reduced criminal behavior.

In addition, many abatement strategies, such as window replacement, help to extend a housing unit's useful life, add to the unit's value, and provide significant collateral benefits, such as energy efficiency and long-term cost savings. Finally, development of the LBP abatement industry provides meaningful jobs training and employment opportunities in those communities with the greatest needs. Making U.S. housing lead-safe is a sound investment that deserves to be assigned a high priority by both the public and private sectors.

D. Crisis in Affordable Housing

Lead poisoning is another dimension of the serious housing crisis facing many low-income families. The major housing problem facing these households is affordability. The 1989 American Housing Survey (AHS) by the Bureau of the Census and the Department of Housing and Urban Development (HUD) found that

5.9 million renter households and 3.1 million owner households pay more than half their incomes for housing or live in seriously inadequate units. Fully 85 percent of the renters were very-low-income households living in privately-owned units without any form of housing subsidy.

Because units occupied by low-income renter households tend to be older and in poorer condition, LBP hazards are much more likely to be prevalent in them. ***LBP hazards therefore constitute one of the foremost affordable-housing problems, as well as a major challenge to the national commitment to providing "decent, safe, and affordable" housing for all American families.*** Capital is scarce and options are limited for millions of units housing low-income families. In many cases, property owners do not have access to funds to correct LBP hazards, or such investments simply do not make economic sense in the marketplace (although they clearly do from a societal standpoint). In other cases, the cost of LBP abatement may increase rents beyond the reach of low-income families.

E. Strategic Approach To Make Housing Lead-Safe

The ultimate public health goal is to remove all sources of lead exposure that can pose a hazard to human health. Therefore, the elimination (or permanent containment) of all LBP is desirable, as all paint is likely to fail over time. However, the magnitude and cost of this endeavor require us to adopt a strategic approach towards this ultimate goal. Accordingly, ***the interim objective is to make all U.S. housing lead-safe as rapidly as possible.*** This in turn requires that initial attention be focused on identifying and controlling LBP *hazards* -- those specific conditions and surfaces which present or can present immediate lead exposures.

The Residential Lead-Based Paint Hazard Reduction Act of 1992 (P.L. 102-550), known as "Title X" (Title Ten), adopts the concept of primary prevention and establishes a strategic approach for targeting resources to the worst hazards first. To achieve these goals, it focuses attention on evaluating and controlling "lead-based paint hazards." In order to advance prevention efforts on a broad scale, Title X prescribes a phased approach to controlling LBP hazards: interim control measures manage LBP hazards over the short-term, while abatement projects "permanently" eliminate all LBP hazards ("permanently" here refers to a treatment that constitutes an intervention effective over the long-term). This new concept represents significant progress in making prevention a reality -- breaking with the traditional "all or nothing" approach that typically resulted in no action at all.

F. Definition of Key Terms

Unless otherwise noted, the use of terminology in this document conforms to the definitions of Title X.

- "Target housing" includes all pre-1978 residential units with one or more bedrooms, except those units developed expressly for the elderly (and in which young children do not reside).

- The term "lead-based paint hazard" is explicitly defined by statute as any of six conditions which can present lead exposures sufficient to cause adverse human health effects: contaminated dust; deteriorated LBP; intact LBP on friction surfaces, impact surfaces, and chewable surfaces accessible to young children; and contaminated bare soil.

- LBP hazards can be identified and evaluated by one or both of two methods: "risk assessments" and "inspections." As prescribed by Title X, risk assessments identify conditions which present or can present lead exposures of concern, while inspections determine the presence of LBP on a surface-by-surface basis.

- There are two broad strategies for reducing residential LBP hazards. The term "abatement" refers to the ***permanent control of lead-based paint hazards*** in a unit (but not necessarily the removal or treatment of *all LBP*). Traditionally, the term "abatement" has been used to refer to the treatment of all LBP. To avoid confusion and to reinforce Title X's narrower definition, this document uses the phrase "LBP hazard abatement."

- The term "interim controls" refers to strategies which make a housing unit ***temporarily lead-safe*** by containing LBP hazards pending abatement. To ensure that excessive lead exposures do not recur, interim controls require vigilance through periodic follow-up monitoring. The lower *initial* cost of interim controls makes possible their implementation on a much broader scale.

## CHAPTER II
## THE CURRENT LANDSCAPE

Title X's enactment created a new federal regulatory landscape. New national technical standards must be promulgated, and new notification and disclosure requirements must be met. The federal government must also take care of LBP hazards in its own housing. All these requirements are instrumental in driving the emerging LBP hazard evaluation and control industries. This chapter highlights the major developments and forces that are rapidly reshaping the landscape.

### A. Federal Quality Controls and Standards

A primary purpose of Title X is to establish clear requirements, standards and safeguards governing the conduct of LBP evaluation and control activities. Specific mandates and deadlines are established for federal agency action in all key areas:

| | |
|---|---|
| Apr 1993 | OSHA Worker Protection Regulations |
| Oct 1993 | HUD Technical Guidelines on how to conduct all evaluation and control activities |
| Apr 1994 | EPA Health-Based Standards for Hazardous Levels of Lead in Dust and Soil |
| Apr 1994 | EPA Regulations on Work Practice Standards |
| Apr 1994 | EPA Regulations for State Programs to License Contractors and Accredit Training Providers |
| Oct 1994 | EPA Assurance of National Accreditation Program for Certifying Environmental Sampling Laboratories |
| Apr 1995 | EPA/HUD Performance Standards for Testing and Abatement Products and Devices |
| Apr 1996 | EPA Requirement to License Contractors in all States without Approved Programs |
| Oct 1996 | EPA Regulations for Licensing Remodeling Contractors Engaged in Hazardous Activities |

B. Requirements for Federally-Associated Housing

Title X also establishes clear requirements and deadlines for LBP hazard evaluation and control in almost all categories of federally-assisted, -owned, and -insured housing. These requirements are significant for several reasons: 1) children are protected by making federally-associated units lead-safe; 2) federal funds provide a guaranteed market for as well as a lever to ensure quality control of private contractors; and, 3) signals are sent to private property owners and to the judicial system about standards of care (which this Framework For Action amplifies). Title X's provisions include the following major requirements for federally-associated housing, which take effect on January 1, 1995:

- All pre-1960 residential units owned by federal agencies must be inspected and have all LBP hazards abated prior to sale to the public.

- Risk assessments must be conducted and interim controls instituted in rental units with project-based subsidies.

- The provision of federal funds for major remodeling and renovation triggers requirements for LBP hazard evaluation and control.

- Tenants of federally-assisted housing must be provided a Lead Hazard Information Pamphlet (developed by EPA) and occupants notified of LBP hazard evaluation results.

C. Emerging LBP Hazard Evaluation And Control Industry

The past few years have brought considerable scientific and technical progress in evaluating and controlling LBP hazards. Although the state-of-the-art continues to evolve and lower-cost methods will continue to be developed and validated, the technology currently exists to control and eliminate LBP hazards in housing safely and effectively. The U.S. Environmental Protection Agency (EPA) has developed standard courses for contractors, inspectors, and workers, and has established a national network of more than 30 university-based lead training centers. In most states, however, the LBP hazard evaluation and control industry remains in a very early stage of development.

Requirements for the use of licensed individuals to evaluate and control LBP hazards for federally-funded work will provide the leverage to ensure quality control as this industry begins to grow. With market demand steadily increasing and more than 20 states actively working on licensing programs, a quality LBP evaluation and control industry is expected to develop rapidly in most areas of the country.

D. Real Estate Notification and Disclosure

Title X establishes unprecedented federal requirements for notification and disclosure related to LBP and LBP hazards in the course of the sale or lease of target housing (effective October, 1994), including purely private transactions. Both purchasers and lessees must be given a "Lead Hazard Information Pamphlet" developed by EPA, as well as all available information about the existence of LBP and LBP hazards in the dwelling. In addition, sales contracts must include a Lead Warning Statement, and buyers must be given at least 10 days to conduct a risk assessment or inspection (at their own expense). It is anticipated that these requirements will precipitate substantial voluntary activity to evaluate and control LBP hazards, especially at the time of real estate sale transactions involving single-family properties. This information pamphlet must also be provided to property owners by renovation and remodeling contractors prior to commencing projects.

E. Liability and Litigation

For years, LBP has been dismissed by many housing agencies, private property owners, and even by some tenants as a nuisance-level problem. New evidence about the harmful effects of lead, increased screening of children, a change in the definition of poisoning, and national media attention have heightened public awareness. In addition, a growing number of lawsuits seeking damages on behalf of poisoned children have confronted property owners as well as housing and enforcement agencies with the need to deal with LBP hazards in housing.

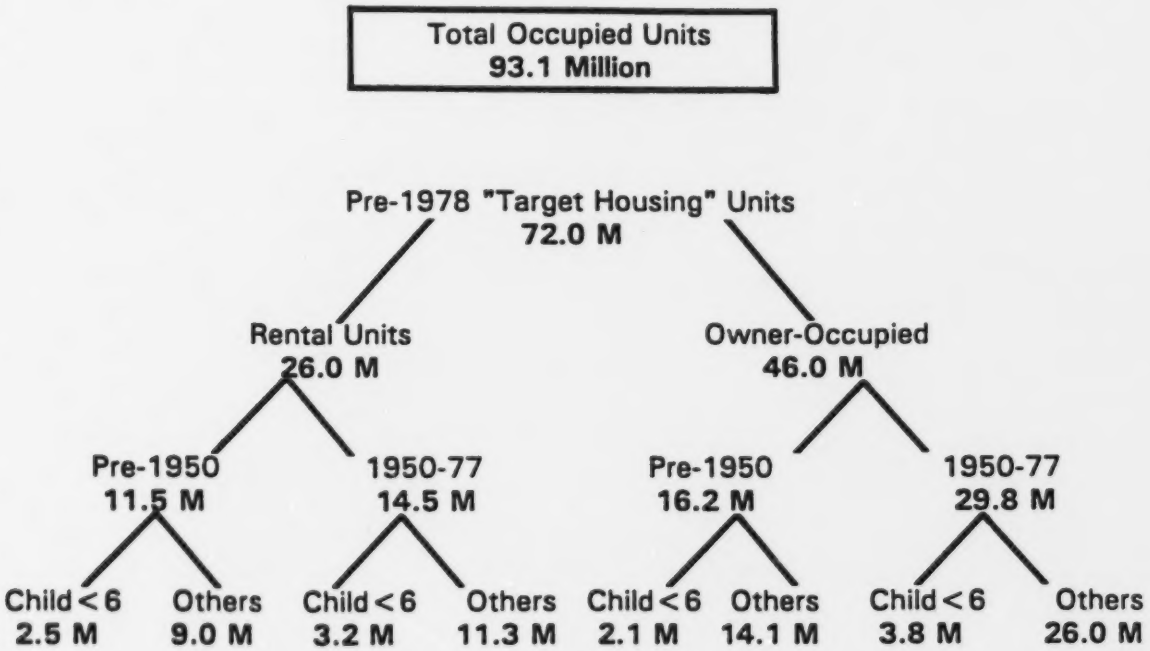
The responsibilities of property owners under common law, state statutes, and local ordinances differ from place to place. Lawsuits proliferate in some cities and states, while other communities with comparable lead poisoning prevalence rates have seen little or no litigation. Currently, no nationally recognized standards of care for LBP exist for private (unsubsidized) landlords. In most areas, confusion prevails over what measures should properly be expected of property owners and government agencies to protect children from lead poisoning.

Liability insurance can play a critical role in preventing lead poisoning and in preserving affordable housing. However, the prevailing confusion over relevant standards of care and the large settlements lead poisoning lawsuits can command are prompting liability insurers to reexamine and in some cases limit their coverage.

## CHAPTER III
## RESPONDING TO THE CHALLENGE IN PRIVATE HOUSING

### A. The Challenge in Private Housing

The universe of occupied U.S. housing units is displayed below. (These figures are based on data from the 1991 American Housing Survey [AHS] and reflect rounding of AHS's pre-*1979* breakdown of unit data.) This chart includes the approximately 4 million federally-owned/assisted units which are already governed by Title X.




Because lead was banned in residential paint in 1978, the 72 million pre-1978 target housing units are the universe of concern. Because of the higher concentration of lead in paint manufactured before 1950 and the greater likelihood of its presence in older housing, 1950 is used as a break point for age of construction. This chart shows that almost twice as many target housing units are occupied by owners than by tenants.

The U.S. housing stock is extremely diverse. Age of housing, ownership, and occupancy are useful in detailing the presence, prevalence, and severity of LBP hazards in U.S. housing and are important to this Framework For Action. One variable that directly affects how units respond to different forces and strategies for making units lead-safe is economic viability. For purposes of this Framework's analysis, the universe of owner-occupied and rental target housing is divided into viable and distressed categories, which each present substantially different opportunities and constraints. The following chart indicates the approximate number of units (reflecting AHS data to the extent possible) that fall into each of these four categories of housing. The relative proportions of viable and distressed housing will of course vary from location to location. One mechanism to determine specific figures for particular jurisdictions is to look to the local Comprehensive Housing Affordability Strategy (CHAS) for pertinent data.

| UNIVERSE OF TARGET HOUSING UNITS | # OF UNITS | # OF UNITS W/CHILDREN < 6 |
|---|---|---|
| VIABLE OWNER-OCCUPIED | 33 MILLION | 5.0 MILLION |
| ECONOMICALLY VIABLE RENTALS | 21 MILLION | 4.6 MILLION |
| LOW-INCOME OWNER-OCCUPIED | 13 MILLION | 0.9 MILLION |
| ECONOMICALLY DISTRESSED RENTALS | 5 MILLION | 1.1 MILLION |

**1. Economically Viable Owner-Occupied Units**

At least three-quarters of all owner-occupied target housing can be considered economically viable. According to AHS data, approximately 71 percent of owner-occupied target housing units are occupied by households with incomes over $20,000. Of these, 76 percent have incomes greater than $30,000. The vast majority of these units are directly affected by and respond to traditional lending and insurance markets and mechanisms.

Each year, according to AHS data, approximately two million owner-occupied units are sold. Because buyers have a right to obtain a LBP inspection or risk assessment before the contract of sale is binding (pursuant to Title X, effective October,

1994), substantial opportunities exist for market forces to prompt voluntary action to make these units lead-safe. Hence, as a general rule, these units can be expected to respond to meaningful private sector incentives and financing mechanisms and to be made lead-safe without public subsidy assistance.

**2. Low-Income Owner-Occupied Units**

Approximately 13 million units are occupied by owners with incomes of less than $20,000. The majority of low-income owner-occupied units are occupied by elderly couples or households without children. Only 0.9 million of these units are occupied by families with children under age six. Although these units are subject to insurance, lending, and market pressures, the majority will probably not have access to the resources required to make them lead-safe. Even with new loan products, these owners may find financing for LBP hazard control unavailable or unaffordable. In many cases, public subsidies will be required to make these units lead-safe.

**3. Economically Viable Rental Units**

About three-quarters of all rental units can be considered economically viable. Most of these approximately 21 million units can be expected to respond to market signals from lenders and insurers (though sometimes to a lesser extent than owner-occupied units). Owners of such housing can finance needed LBP hazard control measures through conventional borrowing (without public subsidy). Tenants in these units can afford somewhat higher rents to help defray such costs. These units will also respond to enforcement strategies by public agencies.

**4. Economically Distressed Rental Units**

It is estimated that about five million U.S. target housing rental units -- about one-fifth of all rental target housing -- can be considered economically distressed. These units have little or no economic viability and typically are not affected by lending and insurance incentives. They often contain the most serious LBP hazards and may have other significant defects. The cost of making such units lead-safe typically amounts to a very high proportion of (and may even exceed) their market value. In other cases, the rent increase required to cover the cost of LBP hazard control would make the unit unaffordable for low-income tenants. In many communities, these units are the principal source of lead-poisoned children. At any given time, at least 20 percent of the units are occupied by families with children under six. In some communities, that figure may be significantly higher. Given the rapid turnover rate typical in distressed rental units, it is critical that the entire universe of economically distressed rental housing be targeted for subsidies.

## B. The Framework For Action: An Introduction

This Framework proposes a national plan to eliminate all LBP hazards in U.S. housing over the next twenty-five years. It seeks to clarify the legal duties of property owners and to design an integrated structure to guide the efforts of all the parties involved in protecting children from lead poisoning. Its success hinges on the full participation of all who have key roles to play, including both public sector and private sector actors.

### 1. Audience

This Framework For Action describes the responsibilities and roles of the principal parties involved in LBP hazard evaluation and control. Property owners, landlords, tenants, insurers, lenders, appraisers, real estate agents, abatement contractors, inspectors, risk assessors, remodeling contractors, lead trainers, state and local governments, federal agencies, and the judicial system all have critical roles and responsibilities to fulfill.

### 2. Objectives

The following six principles guided the design of this Framework.

#### (a) Take a Strategic, Priority-Based Approach

The fact that over half the U.S. housing stock contains some LBP requires setting priorities to ensure that LBP hazard evaluation and control efforts are directed first to units with the highest likelihood of presenting hazardous exposures. Although voluntary action is desirable and encouraged in all target housing, feasibility constraints and limited resources dictate that requirements for LBP hazard evaluation and control be applied to housing units on a "worst first" basis.

Age and location of housing are two easily established objective criteria that bear directly on the likelihood of the presence of LBP hazards. In general, pre-1950 units have more surfaces painted with LBP as well as higher concentrations of lead in such paint. Older units also are more likely to be in disrepair and of low value. Some neighborhoods are disproportionately impacted by lead poisoning -- typically those characterized by poor housing conditions and high rates of poverty -- making geographically-based targeting strategies highly effective in many areas.

#### (b) Make Implementation of LBP Hazard Control Efficient

Requirements for LBP hazard evaluation and control need to be implemented systematically to reach all target housing units. Housing transaction events, such as unit turnover, provide convenient opportunity points for addressing LBP hazards

efficiently, as well as ready enforcement levers. This Framework seeks to take full advantage of the opportunities presented by changes in occupancy. With owner-occupied units, the presence of children under six offers a means of setting priorities for LBP hazard control. However, the higher turnover rate in rental housing and the strong potential for discrimination against families with children combine to militate against use of this variable in the case of rental units.

(c) Provide Flexibility While Guaranteeing Protectiveness

All occupied target housing units must be lead-safe, but no single strategy can achieve this goal. To ensure protectiveness, uniform, health-based standards must be established addressing both what constitutes a LBP hazard and the spectrum of interventions which can effectively address those hazards. At the same time, flexibility must be built into implementation strategies to recognize the important differences among units. Inflexible requirements which result in wholesale abandonment or in depletion of the stock of affordable housing would be counterproductive.

(d) Fuel the Development of, But Not Outrun, Industry Capacity

Firm requirements are needed to generate demand and fuel the emerging LBP hazard evaluation and control industry as well as to attract reputable contractors willing to make the necessary investments in equipment, insurance, training, and worker protection. However, this new industry's growth rate is subject to short-term capacity limits. If new requirements generate demand for private contractors far in excess of supply, price increases will divert resources from units occupied by low-income families and generally presenting the greatest health hazards. Requirements to address LBP hazards must be phased in to drive the steady growth of the LBP hazard evaluation and control industry.

(e) Harness Public and Private Forces and Resources

Achieving LBP hazard evaluation and control in all target housing units will require that a variety of forces and resources be brought to bear. Both public sector and private sector incentives and disincentives will be needed to bring all target housing units into compliance. State, county, and local governments need to incorporate these requirements in ordinances and regulations, and provide for their effective enforcement. Expanded public subsidies must target units containing LBP hazards, with first priority to those occupied by low-income families.

Various private sector parties must also provide incentives (and penalties) to encourage property owners to make units lead-safe, as detailed in Chapter VII. Private sector incentives will be meaningful only to the extent that all the key

players involved (including insurers, lenders, appraisers, real estate agents, and the judicial system) recognize, accept, and respond to the Framework's requirements.

(f) Clarify Standards of Care for Property Owners

The legal system provides a potentially powerful tool for motivating property owners to make units lead-safe. Unfortunately, it is not achieving this potential. First, the current system focuses on compensating victims rather than preventing future poisonings. Second, the lack of clearly defined standards for hazard control leads to seemingly arbitrary results: while a few lead-poisoned children receive large awards that send shudders throughout the real estate industry, the majority never recover any damages. As yet, the courts have failed to send property owners clear signals on the steps they must take to prevent children from becoming poisoned and thus protect themselves from liability. Concerns -- sometimes unfounded -- about liability have led enforcement agencies to both under- and over-react, lenders to refuse to make loans for LBP hazard control, and insurers to reduce or eliminate affordable coverage (even for owners who have made their properties lead-safe).

If the judicial system is to become an effective force in making target housing lead-safe, compelling changes must first be made outside of the courts to help judges and juries come to consistent, rational decisions. State and local legislation that defines owners' duties to control lead hazards and prevent poisonings will greatly help to define the standard of care at issue in tort lawsuits. The creation of trained and licensed private sector inspectors/risk assessors empowered to issue written confirmation of a unit's lead-safe status will allow owners to document their compliance with those standards. And the admissibility in court of such documentation will add the persuasive weight needed to provide a valuable incentive for property owners to comply with all requirements.

To summarize, making the legal system an effective force in preventing poisonings and making target housing lead-safe will require that:

- Triggers and requirements for action be specific and explicit;
- LBP inspections, risk assessments, abatement, and all clearance tests be performed by licensed individuals;
- Documentation be provided that units have been made lead-safe; and
- Such documentation be admissible in court as evidence of compliance with all relevant requirements.

## CHAPTER IV
## FRAMEWORK FOR ACTION

This Framework For Action consists of three major components addressing action by property owners. To ensure that LBP hazards are not created and that intact paint remains intact, they must comply with a set of "Essential Maintenance Practices," which are universally and immediately applicable. Target housing units are made lead-safe as owners meet requirements for LBP hazard evaluation and control. Certificates of Lead-Safety provide documentation to property owners, subject to established requirements for ongoing monitoring and renewal.

### A. ESSENTIAL MAINTENANCE PRACTICES

To ensure that LBP hazards are not created or exacerbated, owners must observe certain Essential Maintenance Practices at all times. In addition to meeting other requirements of state and local building and housing codes, it is the duty of the owners of target housing units to observe the Essential Maintenance Practices prescribed below. Some of these practices are already incorporated in model, comprehensive housing codes. Regardless of any shortcomings in local code requirements or enforcement, ***property owners have a duty to carry out the following Essential Maintenance Practices.***

#### 1. Keep Paint Intact

All intact painted surfaces must be maintained free of flaking, peeling, chalking, chipping, or otherwise deteriorated paint. In addition, walls and other substrates must be maintained in a structurally sound condition to enable continued support of intact painted surfaces. Owners should repaint periodically and undertake routine maintenance, preventive maintenance, and repairs to control moisture and prevent water damage. Moreover, visual monitoring should be done at every unit turnover to ensure that painted surfaces remain intact.

#### 2. Post Notification Information

In the case of rental housing, the name, address, and phone number of both the unit's landlord (or building manager) and the local enforcement agency (if any) must be posted in the building, along with instructions for the tenant to report the discovery of flaking, peeling, chipping, or otherwise deteriorated paint to both. This information should be provided in English and in whatever other language may be appropriate under the circumstances to ensure full comprehension and access to information.

**3. Do not Use Prohibited Practices**

Owners may not undertake (nor allow others to use) unsafe practices prohibited by federal, state or local regulations, ordinances or guidelines, such as open-flame burning or uncontrolled power-sanding to remove paint from pre-1978 surfaces (unless they have been identified as free of LBP).

**4. Take Precautions During Renovation and Remodeling Work**

Owners must ensure that workers and occupants are protected during renovation or rehabilitation work that disturbs painted surfaces (unless those surfaces have been identified as free of LBP). At the conclusion of major projects, "clearance tests" must be performed by a licensed risk assessor or inspector to ensure that proper cleanup was performed.

**5. Provide LBP Hazard Information**

In accordance with Title X, owners of target housing must provide their tenants (as well as prospective purchasers of such housing) with Lead Hazard Information Pamphlets produced by EPA. These educational materials should be supplemented with other appropriate information. In particular, the property owner must share any knowledge of LBP or LBP hazards in the unit with the unit's present or prospective occupants.

**6. Train Maintenance Staff**

Target housing owners who employ maintenance and repair staff must ensure that such workers are trained to handle LBP and LBP hazards and to protect themselves against LBP exposures during the course of routine maintenance work. (Such training is, in many cases, already required by the OSHA Hazard Communication Standard.)

## B. LBP HAZARD EVALUATION AND CONTROL REQUIREMENTS

To ensure that target housing units are lead-safe, property owners must meet the following LBP hazard evaluation and control requirements. As detailed below, action is triggered by various conditions, events, and deadlines. The action required of the property owner depends on the situation and conditions; in some cases, alternative approaches may be available to property owners. ***In all cases, whenever a LBP hazard is identified, action is required to control it. Whenever a control action is taken, testing by a licensed risk assessor or inspector is required to validate the success of the intervention. Target housing units can be considered lead-safe only upon written confirmation by a licensed risk assessor or inspector.***

## 1. Triggers for Action

All target housing units must be subjected to formal LBP hazard evaluation and (as appropriate) control. The following conditions, events, and deadlines prescribe when action is required.

(a) Rental Unit Turnover

For rental housing units, ***LBP hazard evaluation and control requirements are triggered by tenant turnover.*** The schedule below establishes a priority-based approach to ensure that highest-risk rental units receive earliest attention, upon the first occupancy change after the following dates:

| Year of Construction | Effective Date |
|---|---|
| Pre-1950 Rental Units | January 1, 1996 |
| 1950-59 Rental Units | January 1, 1998 |
| 1960-77 Rental Units | January 1, 2000 |

***Rationale:*** *Using unit turnover as a primary trigger for LBP hazard evaluation and control is cost-effective and convenient to property owners, provides an effective lever for enforcement, and meters requirements to match the growth in industry capacity. Calling for LBP hazard control measures upon vacancy of a unit permits free access to the unit by the landlord, prevents risks to occupant safety and health, and avoids tenant relocation costs. LBP-related work can also be incorporated in maintenance and repair projects which owners routinely conduct upon turnover. Moreover, starting with the oldest housing focuses attention first on units most likely to contain the most serious LBP hazards.*

*In addition, it focuses immediate attention and resources on units that tend to house children. The 1991 American Housing Survey indicates that 44 percent of children under age six in target rental housing live in pre-1950 units. Furthermore, 37 percent of all renter households with children under the age of six had moved within the past year and 87 percent had moved within the past five years.*

*Initiating requirements in 1996 allows the capacity of the LBP hazard evaluation and control industry to build in the interim.*

*For the enforcement agency, the unit turnover trigger offers a reliable means to verify compliance. For instance, inspectors in some cities regularly check with the local utility company to obtain the names of new customers as a means of verifying compliance with unit turnover housing inspection requirements.*

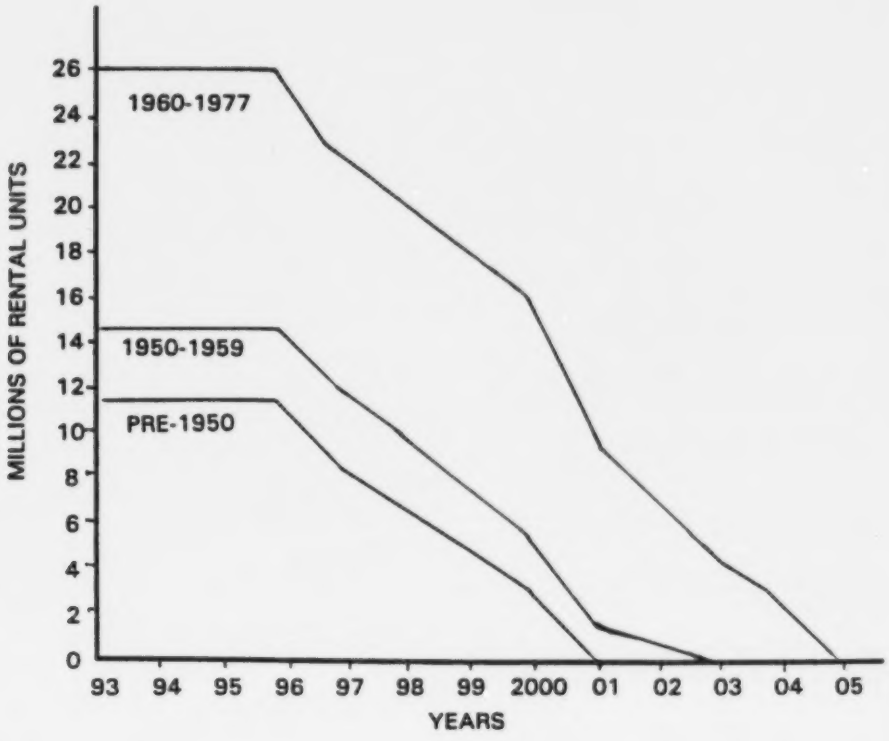
(b) Mandatory Deadlines for All Target Housing

Although turnover provides a useful and effective lever for triggering LBP hazard control requirements in rental units, firm deadlines are essential to ensure action in *all* target housing units. Hence, LBP hazard evaluation and control must be undertaken in all target housing units, based on the following deadlines:

| Category of Housing | Deadline for LBP Hazard Control |
|---|---|
| All Pre-1950 Rentals (Est. Total of 11.5 Million) | No Later Than 2000 |
| All 1950-59 Rentals (Est. Total of 3.5 Million) | No Later Than 2002 |
| All 1960-77 Rentals (Est. Total of 11 Million) | No Later Than 2004 |
| Pre-1950 Owner-Occupied Units with Children (Est. Total of 2.1 Million) | No Later Than 2006 |
| 1950-77 Owner-Occupied Units with Children (Est. Total of 3.8 Million) | No Later Than 2008 |
| All Remaining Units (Est. Total of 40.1 Million) (56% of Target Housing) | No Later Than 2020 |

***Rationale:*** *This schedule sets priorities among categories of target housing to ensure that LBP hazard evaluation and control occurs in the highest priority units (all rental target housing units and those owner-occupied target housing units containing young children) by the year 2008. Requirements for action upon turn-over (sale) of owner-occupied units are not called for by this Framework, because buyers have strong incentives to avail themselves of the leverage provided by Title X. It is expected that the majority of owner-occupied units will have been made lead-safe before these deadlines, as the housing stock turns over and buyers increasingly exercise their rights in response to growing awareness of LBP hazards, and as concerned parents take steps to control LBP hazards in their own homes. Having firm deadlines provides predictability and certainty to ensure universal implementation of requirements for LBP hazard control, as well as an enforcement tool for local governments, legal services attorneys, and the courts.*

While these mandatory deadlines provide a realistic timetable to phase-in requirements, the following graph makes clear that millions of rental target housing units -- not to mention owner-occupied units -- will wait years before LBP hazard control measures are required to be taken. ***This reinforces the need for the immediate implementation of Essential Maintenance Practices in all target housing units.***



(c) The Presence of Deteriorated Paint

In addition to the turnover and deadline triggers described above, the presence at any time of deteriorated paint (unless it is proven not to contain lead) requires immediate action. The discovery of deteriorated paint requires one of two courses of action by the property owner:

- A lead hazard evaluation may be conducted and any LBP hazard identified corrected, or

- The deteriorated paint may be corrected without conducting a formal lead hazard evaluation. However, this action *must* be handled as an abatement project and must be conducted by a licensed individual (except in cases in which only de minimis amounts of paint are deteriorated), with appropriate occupant protection.

In either case, the corrective action must be followed by clearance tests conducted by a licensed risk assessor or inspector.

Regardless of the status of the unit with respect to turnover triggers and deadlines, ***LBP hazard evaluation and/or control action must be taken immediately upon the detection of deteriorated paint.***

***Rationale:*** *The presence of deteriorated paint in target housing is presumed to constitute an immediate exposure hazard, unless it is proven not to contain lead. Regardless of the status of the unit with respect to turnover triggers and deadlines, LBP hazard evaluation and/or control action must be taken by property owners promptly upon detection or notification. These requirements help to reinforce the duty to keep paint intact.*

(d) Presence of a Poisoned Child

As outlined in further detail below (in section 2(b) on LBP hazard controls), the ***identification of a poisoned child in a target housing unit obligates the landlord to take immediate action to ensure that the home is lead-safe.***

**2. LBP Hazard Evaluation and Controls**

When LBP hazard evaluation and control requirements are triggered, it is the duty of the property owner to take all steps necessary to make the unit lead-safe.

(a) LBP Hazard Evaluations

Generally, property owners will be able to choose between two complementary approaches in identifying and evaluating LBP and LBP hazards: risk assessments and inspections. Both must be conducted by licensed individuals free of conflicts of interest with the abatement contractor. Inspection and risk assessment procedures will be specified in EPA training courses and HUD guidelines by late 1993 and in EPA regulations and state licensing programs by early 1994. It is expected that EPA training and licensing programs will establish two evaluation disciplines: an "inspector technician" and a more senior "risk assessor." It is also expected that states will administer the licensing programs.

In all likelihood, trainees in both disciplines will be trained to take dust samples (to identify lead-contaminated dust) as well as to identify the presence of LBP. Both are thus likely to become qualified to conduct clearance testing and to attest to the success or failure of any LBP hazard control measure undertaken. However, ***only "risk assessors" will be qualified to exercise the judgment required to identify acceptable options for controlling LBP hazards.*** Hence, owners of target housing will generally benefit most from having a risk assessment conducted.

Some owners may want to proceed with LBP hazard controls without benefit of *any* prior LBP hazard evaluation, bypassing the evaluation stage altogether. This Framework gives owners that option, subject to specific requirements for control action.

**(i) Risk Assessments**

Risk assessors are trained to detect all LBP hazards in a given dwelling, diagnose the sources of exposure, and identify acceptable control strategies. For units in which interim controls are being considered, the property owner may find it cost-effective to obtain a risk assessment first. The risk assessment report will identify specific LBP hazards. Pursuant to criteria established by federal agencies, the risk assessor will determine options available to the property owner for hazard control. In some cases, structural conditions or the severity of identified hazards may make LBP hazard abatement the only acceptable option. In other cases, interim controls may be an acceptable option. It should be noted that private sector risk assessors lack the authority to *order* action. The risk assessor's role is to identify acceptable LBP hazard control strategies pursuant to criteria established by government agencies. While risk assessors may provide advice to property owners on how best to proceed, their discretion must be bounded by government guidelines.

Property owners may find it cost-effective to pay for a risk assessment before proceeding to LBP hazard controls, because risk assessments: 1) may confirm that no LBP hazards exist in the unit, in which case LBP hazard control measures are

not mandatory; 2) may identify the specific conditions which constitute LBP hazards, making interim control measures more cost-effective and successful through careful, customized design and execution; and 3) may identify situations in which interim controls are inappropriate, in which case an abatement is required (avoiding unnecessary expenditures on failed or inadequate interim controls initiated without benefit of a risk assessment).

**(ii) Inspections**

Inspectors will be trained to detect the presence of LBP by conducting a surface-by-surface investigation of the unit. As a rule, much less information is available from an inspection report than is contained in a risk assessment report. Most important, interim controls are not an appropriate response to an identified LBP hazard unless confirmed as an acceptable strategy by a risk assessment.

**(iii) Electing to Bypass LBP Hazard Evaluation**

The property owner has the option to forego a LBP hazard evaluation altogether, but exercising it limits the allowable control options. In such cases, the owner has three possible courses of action:

1) Complete removal of all paint in the unit;

2) Unit abatement, in which case all painted surfaces must be assumed to contain LBP, and ***all surfaces which could constitute LBP hazards must be abated;*** or

3) A prescribed set of "Standard Interim Controls" (described below, in (b)[iii]), which are short-term LBP hazard control measures designed to be protective wherever LBP hazards are presumed to exist.

**(iv) Special Requirements for Owners of Multiple Units**

Owners of multiple units (here defined as owning ten or more units) represent a special sector of the housing universe. For some owners of multiple units, there may be opportunities to streamline hazard evaluation, as federal guidelines are expected to permit sampling of units with similar construction and painting histories.

(b) LBP Hazard Controls

In general, the property owner has discretion in selecting either abatement or interim control strategies to treat LBP hazards. The evaluation of LBP and LBP hazards by licensed professionals should provide valuable information and thus help the owner to arrive at a sound decision. As a general principle, the abatement of

LBP hazards is favored over the institution of interim controls. While both methods can make units lead-safe, ***abatements provide permanent or long-term hazard control, while interim controls may only be effective for a shorter period.*** Although interim controls typically have a lower initial cost, requirements for ongoing monitoring and maintenance can make abatement more cost-effective based on life-cycle costs. However, resource constraints and the lack of financing may make LBP hazard abatement difficult or impossible without public subsidies.

### (i) Abatement

Abatement is normally preceded by a LBP hazard evaluation conducted by a licensed individual to identify the presence of LBP and LBP hazards. The property owner must hire a licensed abatement contractor for the project, who must conform to all federal, state, and local regulations and requirements (including worker protection, occupant protection, cleanup, hazardous waste disposal, and all other relevant requirements). The property owner may elect to remove all LBP from the unit or to abate by treating only those surfaces with LBP that are statutorily defined as "LBP hazards."

The three strategies for abating LBP hazards are: 1) removal of the paint from the building component, 2) replacement of the building component, or 3) the enclosure or encapsulation of the LBP. It must be emphasized that Title X mandates the development of performance standards for encapsulants. Until such standards are developed and until independent testing confirms that products meet such standards, encapsulants may not be used as an abatement strategy.

At the conclusion of every abatement project, the unit must pass clearance testing by a federally or state-licensed individual. The person or firm conducting the clearance tests must be free of conflicts of interest with the abatement contractor.

While owners will usually be free to decide between an abatement and implementation of interim controls, certain situations do exist that limit the owner's power to choose. ***As a rule, abatements are required in the following cases:***

- **The Presence of a Poisoned Child**

  In the case of a child whose blood lead level has reached the CDC threshold that triggers an environmental investigation, it shall be the duty of the property owner to ensure that a lead hazard evaluation is conducted. Any LBP hazards found must be abated, unless interim controls are already in place and the local enforcement agency grants an exception to permit their continued use.

*Rationale: Above all, poisoned children must not be allowed to continue to be exposed to sources of lead. Current public health practice dictates an environmental investigation once a child's blood lead level exceeds CDC's threshold. That same level should trigger abatement of the unit. Therefore, if LBP hazards are found in a unit where a poisoned child lives, the owner will generally be required to abate. However, when effective interim controls are already in place, the enforcement agency should have discretion to permit their continued use, on a case-by-case basis. For example, if the enforcement agency finds no source of current exposure in a unit under interim controls, and upon further investigation discovers likely sources of exposure outside the unit, an abatement of the unit may not be deemed necessary. This exception to the rule of mandatory abatement provides owners with a powerful incentive to initiate interim controls as early on as possible.*

- **Risk Assessor Rejection of Interim Controls**

There are some units in which interim controls cannot even be considered as an option. For instance, interim controls are not appropriate in situations where substrates are not sound or where water damage and/or other conditions threaten the integrity of the paint. When a risk assessor identifies such conditions or any other pertinent circumstances (pursuant to criteria established by federal agencies), the risk assessor shall prescribe abatement as the only appropriate LBP hazard control option.

- **The Failure of Interim Controls**

Abatement of LBP hazards is required when interim controls fail or are insufficient to control LBP hazards. Obviously, if an interim control strategy fails to pass clearance tests, a more aggressive approach is needed. In addition, LBP hazards must be abated in any unit under interim controls which "fails" two consecutive followup monitoring tests.

- **Other Abatement Triggers**

State, county, and local governments may enact legislation that require abatement in other specified circumstances or in certain particularly hazardous subsets of target housing. For example, an owner with a poisoned child in one unit could be required to abate all other units in the same building.

**(ii) Interim Controls**

Technical guidelines to be issued by HUD in October, 1993 will detail how interim control strategies are to be carried out. In all cases where interim controls are instituted, clearance tests must be performed by a licensed inspector or risk

assessor to demonstrate the success of the intervention. In addition, it is the duty of the owner of a property in which any LBP hazard is under interim controls to ensure that ongoing monitoring requirements (described below, in section C of this Chapter) are carried out. Individuals conducting interim controls should be properly trained to deal with LBP hazards, to ensure their own protection as well as to ensure the unit passes clearance tests. Since no federal licensing requirements exist for individuals engaged exclusively in interim controls, property owners undertaking interim control activities should contact the nearest EPA lead training center to obtain the names of individuals who have received appropriate interim controls training.

**(iii) Interim Controls Without Benefit of an Evaluation**

If an owner decides to bypass the risk assessment step and wants to undertake interim controls, *all elements* of the Standard Interim Controls prescribed below must be implemented. Without the benefit of a risk assessment report, owners desiring to implement interim controls must eliminate all potential risks of exposure to LBP hazards.

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STANDARD INTERIM CONTROLS

(a) Eliminate all deteriorated paint.

(b) Carry out specialized dust removal procedures.

(c) Create smooth and cleanable surfaces wherever dust can accumulate.

(d) Adjust all doors to ensure that they are properly hung so that no painted surfaces bind.

(e) Treat all friction window surfaces to remove all paint, or cover such surfaces with sheet materials such as vinyl or aluminum.

(f) Treat all accessible, chewable, painted interior surfaces.

(g) Cover all window sills and wells with sheet materials such as vinyl or aluminum.

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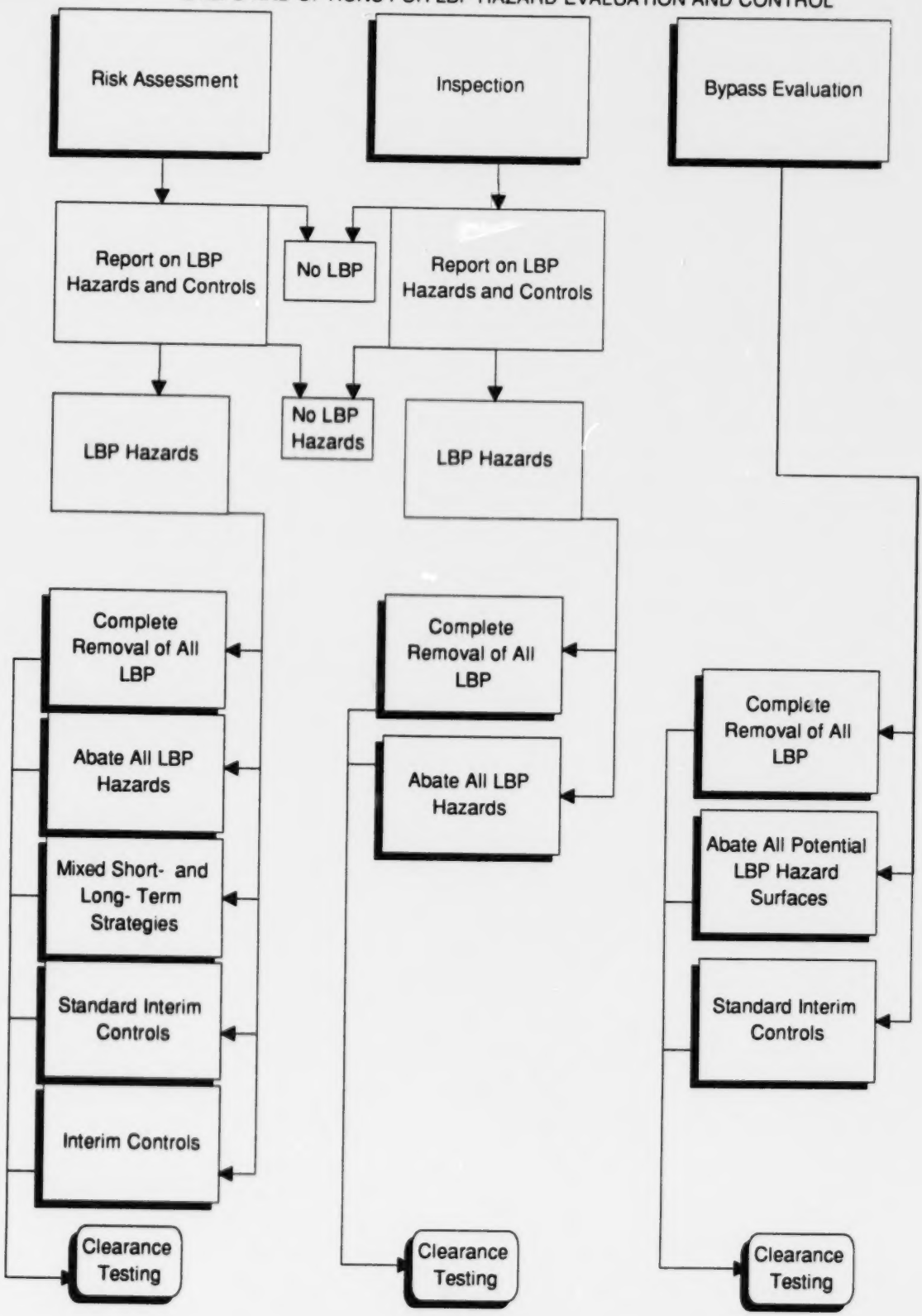
***Rationale:*** *Although this option permits the property owner to direct resources exclusively to LBP hazard control (rather than evaluation), this approach has three potential disadvantages: 1) resources may be devoted to LBP "hazards" which, in fact, do not exist; 2) the interim controls will be rejected if conditions are found which would have precluded their use upon an initial risk assessment; and 3) units which fail clearance tests at the conclusion of Standard Interim Controls may be required to have LBP hazards abated (also resulting in unnecessary expenditures on inadequate interim controls). It should be emphasized that owners who elect to bypass risk assessments in this manner do so at their own risk, as the unit must still pass clearance tests by a licensed risk assessor or inspector after the interventions have been completed.*

The following flowchart summarizes the LBP hazard evaluation and control measures outlined in this Framework. After a unit has undergone such measures, it ***must always pass clearance tests meeting federal standards before the intervention strategy may be considered successful and a property owner can receive documentation of compliance.***

STEPS AND OPTIONS FOR LBP HAZARD EVALUATION AND CONTROL



## C. ONGOING MONITORING AND CERTIFICATES OF LEAD SAFETY

Upon successful implementation of LBP hazard control measures, confirmed by clearance tests conducted by a licensed risk assessor or inspector, a unit is considered lead-safe and is issued a "Certificate of Lead Safety" by the risk assessor or inspector. Each Certificate will have a specific duration, depending on the intervention taken. A copy of the Certificate should be sent to a centralized, local repository by the risk assessor or inspector issuing it. As described in Chapter VI, a "Registry for Lead-Safe Housing" would fulfill such a purpose. It would be helpful for the risk assessor or inspector issuing the Certificate also to send a reminder to the owner approximately one month prior to the Certificate's expiration date.

This Certificate represents the owner's proof of compliance, as of the date issued, with all LBP hazard control requirements prescribed pursuant to this Framework. The Certificate should be admissible in court as evidence of the owner's good faith efforts to fulfill the relevant standard of care. However, the existence of a Certificate does not constitute a defense against administrative orders resulting from changed conditions after its issuance, including the discovery of deteriorated paint or the identification of a poisoned child living at the unit. In all cases, further monitoring is required to ensure continuing compliance, as prescribed below.

***Ongoing monitoring is an essential component of LBP hazard control.*** Whenever LBP is left untreated, monitoring must ensue at appropriate intervals to verify that no deterioration of such LBP has occurred. Similarly, whenever an abatement strategy leaves LBP in place, monitoring must be scheduled to ensure the continued integrity of the abatement measure. Finally, the institution of interim controls requires annual monitoring, both to monitor the condition of untreated LBP and to ensure that the interim control measures continue to be effective in controlling the reaccumulation of lead-contaminated dust.

The following chart characterizes the six possible scenarios in which target housing units receive a Certificate of Lead Safety, indicates the respective duration of each Certificate's validity, and describes the process for Certificate renewal.

| ACTION | DURATION OF CERTIFICATE | CERTIFICATE RENEWAL PROCESS |
|---|---|---|
| No LBP detected in unit (Either pre- or post-intervention) | Permanent | Not Needed |
| Enclose all LBP | 20 years | Visual inspection |
| Abate all LBP hazards | 5 years | Visual inspection |
| Mixture of abatement and interim controls | 1 year | Repeat Clearance Testing |
| Standard Interim Controls | 1 year | Repeat Clearance Testing |
| Interim controls | 1 year | Repeat Clearance Testing |

*Rationale: Both the duration of a Certificate of Lead Safety as well as the procedures for its renewal depend on the intervention taken.*

*Permanent Certificate: Upon completion of a surface-by-surface inspection that detects no LBP and no LBP hazards, a unit is deemed not to present any threat of LBP hazard exposures and should therefore be granted a "Lead-Free Certificate," valid in perpetuity. Moreover, if after all LBP is removed or replaced in a unit, clearance tests reveal no LBP left in the unit, a Lead-Free Certificate should likewise be granted.*

*20-Year Certificate: Whenever an abatement results in the successful enclosure of all LBP in a unit, a 20-year Certificate is appropriate, because the LBP hazard control strategy employed was a long-term one which treated all LBP in the unit.*

*5-Year Certificate: Whenever some LBP is left behind (in the case of LBP hazard abatement) the potential remains for that paint to deteriorate and create a hazard. In such case, a 5-year Certificate is appropriate, with renewal upon visual inspection by a licensed individual.*

*1-Year Certificate: Whenever any interim control strategy is employed, the remaining LBP may deteriorate or dangerous levels of lead-contaminated dust may reaccumulate. Hence, only a 1-year Certificate is issued, with repeated clearance tests required for renewal. Over the next few years, research studies will produce reliable data on reaccumulation rates for lead in dust, which may indicate that the duration of interim control Certificates should be longer or shorter than 1 year. An advantage of the 1-year Certificate proposed by this Framework is its coincidence with typical liability insurance policy periods.*

## CHAPTER V
## TAILORING STRATEGIES FOR DIFFERENT CATEGORIES OF HOUSING

### A. Overview

Although this Framework For Action is designed to make all private housing units lead-safe, the fundamental differences among units cause them to respond to different stimuli. Implementation strategies will only be effective if these differences are taken into account. The following chart indicates which units will respond to which forces. (The figures used are estimates based on available American Housing Survey data.)

| | # Units | # Units with children < 6 years | Education and Disclosure | Insurance, Lending, & Market Forces | Enforce-ment | Subsidies |
|---|---|---|---|---|---|---|
| Viable Owner-Occupied | 33 M | 5.0 M | ✓ | ✓ | | |
| Viable Rental | 21 M | 4.6 M | ✓ | ✓ | ✓ | |
| Low-Income Owner-Occupied | 13 M | 0.9 M | ✓ | ✓ | | ✓ |
| Distressed Rental | 5 M | 1.1 M | ✓ | | ✓ | ✓ |

This chart makes clear that the majority of U.S. housing units can be made lead-safe without additional public subsidies if private market forces can be effectively harnessed, as described in Chapter VII. In addition to insurance and lending incentives, enforcement by public agencies will be highly effective in prompting action in viable rental units. However, there are significant numbers of units which will simply not respond to market forces or solely to enforcement strategies. These units cannot be made lead-safe without public subsidies.

### B. The Heart of the Problem

There is no doubt that the most serious LBP hazards exist in distressed rental units and in some owner-occupied units inhabited by low-income households. The majority of the distressed rental units are in urban areas already impacted by

economic and social problems. The families who occupy these units are lower-income and disproportionately people of color. These are the children at highest risk of childhood lead poisoning. And these are the housing units which are least able to respond.

Most of these units lie outside of traditional lending markets and mechanisms, and few will respond to signals from liability insurers. Success in implementing the elements of this Framework For Action in those units will depend largely on strategies developed by local governments. Effective enforcement is critical to preventing childhood lead poisoning, but reliance on enforcement absent public subsidies will be counterproductive in economically distressed units. ***In most cases, making these units lead-safe will require a combination of enforcement and subsidy strategies.*** Chapter VI identifies a range of enforcement strategies to assist federal, state, and local agencies in implementing the elements of this Framework For Action.

C. The Critical Role of Public Subsidies

Federal, state, and local governments have a critical role to play in providing subsidies to help owners of genuinely economically distressed units make these units lead-safe. More than one-quarter of all renters with children under age six living in target housing have household incomes below $10,000, meaning that they generally can afford no more than $250 monthly for rent, heat, and other utilities. The unfortunate truth is that without public subsidies, rigorous enforcement of the requirements proposed in this Framework For Action could force significant abandonment of economically distressed units.

Investments in making U.S. housing lead-safe produce benefits far in excess of the costs -- and represent sound public policy. The housing affordability crisis in the U.S. is severe -- and affordable housing deserves increased resources in its own right. The added benefits that accrue from preventing lead poisoning justify the commitment of additional resources by all levels of government.

Subsidy strategies should be used to advance two complementary objectives. First, public funds should be used to accelerate the improvements necessary to make as many low-income units lead-safe as soon as possible. Second, subsidy strategies should seek to derive maximum advantage from the creation of lead-safe units by matching them as much as possible with low-income families with young children.

As in the case of all public subsidies, safeguards must be incorporated to ensure that low-income persons benefit, and that windfall profits do not accrue to the owner upon the sale of the property. In the case of low-income owner-occupied units, public subsidies should be reserved for families with children under age six.

In all cases, subsidy programs should be coordinated with enforcement strategies and should complement them.

D. Sources of Public Subsidies

A new source of federal funds is HUD's competitive LBP abatement grants program. This program, which was created by the Congress in 1992 and has received steady funding increases, provides grants of up to $6 million per year to help cities and states abate LBP hazards in low-income private housing. Both cities and states can apply annually for these funds.

Additionally, LBP hazard abatement is an eligible activity under HUD's Community Development Block Grant (CDBG) and HOME programs. Local governments must recognize the social costs imposed by childhood lead poisoning and afford a higher priority to abating LBP hazards in low-income units using CDBG and HOME funds. A change in the 1992 federal housing law requires that state and local governments explicitly consider LBP hazards in developing their Comprehensive Housing Affordability Strategies (CHAS). The National Center For Lead-Safe Housing's June, 1993 publication entitled "Lead-Based Paint Hazards and the Comprehensive Housing Affordability Strategy" provides a guide to help states and local governments engaged in this process. CDBG and HOME funds devoted to abating LBP hazards should be targeted to high-hazard units with rents at or below area Fair Market Rents and occupied by or offered to low-income families, particularly those with a child under age six or with a pregnant woman.

E. Subsidies To Make Economically Distressed Units Lead-Safe

***Subsidies that are available for LBP hazard control activities should target economically distressed units.*** As a rule, public LBP hazard control subsidies should be reserved for abatement activities, such as window replacement, rather than purely interim control activities, such as repainting and cleaning. In many cases, abatement of LBP hazards will prove more cost-effective in the long run, due to the avoided costs of interim controls, frequent monitoring, and maintenance. Owners of rental units who receive public subsidies to make their units lead-safe should be legally bound to take affirmative steps, including notice to the local Registry, before re-renting abated units which become vacant.

In many cases, local governments will find it efficient to focus public subsidies on geographic "hot spots." The delineation of an "Emergency LBP Hazard Zone" may facilitate targeting subsidies to the population of children at highest risk and in greatest need. In addition, local governments should consider strategies which take advantage of economies of scale by addressing LBP hazards in housing on a block-by-block basis, instead of on a house-by-house basis. Local agencies, non-

profit housing providers, and community-based contractors could train and assemble crews to address LBP hazards in blocks of units.

F. Subsidies Must Match Families in Need to Lead-Safe Units

When housing units are made lead-safe, they constitute a valuable resource. Every effort should be made to have these units occupied by families with young children. ***Because only one out of five U.S. households includes children under age six, matching these families with lead-safe units multiplies the payoff of investments in LBP hazard control many times over.*** Public sector subsidies therefore need to facilitate the matching of families with young children and lead-safe units, with first priority given to low-income families living in economically distressed target housing units. As described in Chapter VI, a local Registry of Lead-Safe Housing directly serves this objective.

Existing federal and state programs for assisted housing offer significant opportunities to encourage -- if not mandate -- such matches. For instance, HUD could authorize increased subsidies (of up to 120% of Fair Market Rent) under the Section 8 certificate program to finance the cost of abatement, if units are occupied by families that include a child under age six or a pregnant woman. In addition, families with children under age six or a pregnant woman who receive vouchers or certificates should be counselled on the importance of choosing lead-safe units and should be directed to such units. Finally, homeownership and subsidized mortgage programs for families with young children should ensure that provision is made to include the cost of abatement (preferably prior to occupancy) in the subsidy.

G. Expand Private Sector Investments

Finally, additional *private* sector resources must be generated to control LBP hazards in units occupied by low-income families. Banks and other lending institutions which provide residential financing should receive recognition and credit for financing LBP hazard abatement under the Community Reinvestment Act (CRA). Insurers should also contribute by reinvesting funds in low- and moderate-income communities. Investments that fund improvements to make units lead-safe also make them more readily insurable.

## CHAPTER VI
## THE ENFORCEMENT ROLE OF STATE, COUNTY, AND LOCAL AGENCIES

To ensure that Essential Maintenance Practices and LBP hazard control requirements are universally and appropriately carried out, effective enforcement and monitoring must be an integral part of the overall hazard control strategy. State, county, and local agencies must play central oversight and enforcement roles.

### A. Make Elements of the Framework For Action Enforceable

State, county, and local governments will need to enact new statutes, regulations, and ordinances to codify the requirements set forth in this Framework For Action to render its provisions legally enforceable.

- Local housing and building codes must be strengthened to include Essential Maintenance Practices.

- The schedule of triggers and deadlines must be made mandatory with the requirements for LBP evaluations enforced upon turnover and whenever appropriate.

- Requirements for LBP hazard control must be made explicit, including establishing a system to issue and enforce Certificates of Lead Safety.

- Swift and appropriate action by landlords must be ensured upon a local agency order or upon tenant notification of deteriorated paint.

In addition to codifying the elements of this Framework, most states need additional legislation related to universal blood lead screening, contractor licensing and the accreditation of training providers. Because eligibility for HUD abatement grants is dependent on states having EPA-approved programs for licensing contractors, many states are now considering legislation to authorize such programs. States and local governments should take advantage of this opportunity to enact comprehensive lead laws. The Alliance To End Childhood Lead Poisoning's June, 1993 Model State Law may provide a useful framework for structuring comprehensive legislation.

### B. Take Maximum Advantage of Existing Programs and Authorities

As state and local governments are working to enact additional legislation, every effort must be made to take full advantage of existing programs and authorities. Cities can use existing building and housing codes to enforce action to protect children from LBP hazards. Moreover, in many states the presence of deteriorated paint already constitutes a violation of the implied warranty of habitability.

Remodeling permits provide a useful lever for controlling (or avoiding the creation of) LBP hazards. Wherever possible, permits should be required prior to the undertaking of any activities that are likely to disturb more than de minimis quantities of painted surfaces in a target housing unit. At a minimum, local permitting agencies should provide EPA's Lead Hazard Information Pamphlet and other educational materials concerning the need for occupant and worker protection and cleanup for projects which may disturb paint in target housing units. Local agencies should ensure that prohibited work practices are not used and should require dust wipe clearance tests as a condition for final approval of renovation projects which disturb more than de minimis quantities of LBP. Building inspectors and code enforcement staff should be trained to be knowledgeable about LBP hazards.

Many local governments operate blood lead screening programs, typically administered by health departments, to identify children with elevated blood lead levels. When a poisoned child is found, agency staff conduct environmental investigations to identify the cause of the poisoning. ***These staff should be trained and licensed as risk assessors as well.*** In many cases, health and housing departments must collaborate to ensure that orders issued by agency staff are fully complied with and vigorously enforced. As described below, concerted action is always required to provide immediate protection to children identified as poisoned.

Housing enforcement agencies must become more vigilant in enforcing anti-retaliation and Fair Housing laws to eliminate retaliatory evictions and discrimination by landlords against families with young children. Coordination among all relevant enforcement agencies is critical.

C. Special Enforcement Strategies for Distressed Housing

Because the children at highest risk of childhood lead poisoning live in distressed housing, priority should be given to these units by local governments. Because these units tend to be concentrated in neighborhoods with older housing and high rates of poverty, geographically-based approaches may be highly effective in many communities. In addition to Census and other data on age of housing, deterioration, poverty, and other relevant variables, data on poisoned children from blood lead screening programs can also help to identify priority areas. ***Local governments may find it helpful formally to designate Emergency LBP Hazard Zones.***

Geographical targeting can multiply the effectiveness of enforcement resources. For example, all local agency inspections (housing, building, renovation permits, code enforcement, and environmental investigations) of units in these areas should direct special attention to LBP hazards. This includes a visual assessment of paint condition as well as confirmation that Essential Maintenance Practices are being

observed, including the posting of landlord and enforcement agency phone numbers in each building containing target housing rental units.

Local governments should also target enforcement resources at these Emergency LBP Hazard Zones to ensure full compliance with the unit turnover and other triggers for LBP hazard evaluations. Particular attention should be directed to ensuring that owners are complying with requirements upon rental property turnover. For example, some cities have used utility records to identify a unit's turnover to new occupants. Many units in these areas are often under the same ownership, providing an opportunity for local governments to use the identification of hazards in one unit to leverage action by the owner in others. Public education efforts may also be effectively targeted to residents of these areas.

As lead hazard evaluations identify LBP hazards, local governments may find that the cost of making some economically distressed units lead-safe (even through interim controls) is beyond the owner's means. Enforcement measures must therefore be used in tandem with the previously described subsidy strategies. In cases where public subsidies are unavailable, and LBP hazard controls cannot be instituted, local governments should make every effort to identify children at risk and ensure their relocation to lead-safe housing.

D. Guarantee Protection to Poisoned Children

When a poisoned child is identified, state and/or local governments should ensure that a comprehensive environmental investigation is initiated to identify all sources of lead exposure, in accordance with the CDC's guidelines. ***Unless a poisoned child's home is already under interim controls -- validated by a current Certificate of Lead Safety -- and is shown not to present an exposure hazard, enforcement agencies should order prompt abatement of all LBP hazards in the unit.*** In the case of a unit for which a valid Certificate of Lead Safety exists, the presence of a poisoned child does not invalidate the Certificate. At the same time, the existence of a Certificate does not constitute a defense against administrative orders resulting from an enforcement action. Thus the Certificate may be rendered void if the owner fails to comply in a timely fashion with enforcement requirements. Regardless of action taken (or not taken) by local agencies, it is the duty of the owner of any unit in which a child identified as lead-poisoned (with a blood lead level at or above the CDC threshold for an environmental investigation) is living to ensure that a risk assessment is promptly conducted, and that all identified LBP hazards are controlled in a timely manner.

If the owner fails to make the unit lead-safe or fails to comply with an enforcement order, the unit should be declared unfit for occupancy. In the latter case, local or county governments should supervise (and facilitate through subsidies if necessary) the child's immediate removal from the unit to lead-safe housing. If the

poisoned child was living in a rental unit determined to contain LBP hazards, the property owner should pay the relocation costs. Local governments should assist non-profits to purchase such housing, undertake the LBP hazard control requirements necessary to make the housing lead-safe, and make the unit available to low-income families with young children.

The identification of all poisoned children should be reported to local health and housing departments. Such data should be used by these agencies to plot lead poisoning prevalence data and identify geographic "hot spots." This information can be used to prioritize enforcement efforts and target provision of subsidies.

E. Special Strategies for Owners of Multiple Units

Local governments may find that special strategies for owners of multiple units can provide earlier protection from childhood lead poisoning than the triggers and deadlines would otherwise require. Owners of ten or more units should have the option to have a licensed risk assessor develop a LBP Hazard Control Plan for making all units lead-safe within a statutorily-defined reasonable period of time. Such plans would have to meet approval criteria developed by appropriate federal, state, county, or local agencies. Early attention should be directed to families with children under age six. Such plans could also take advantage of the options some owners of multiple units may possess, to relocate families with young children (or a pregnant woman) to lead-safe units -- at the owner's expense. Upon approval of a workable LBP Hazard Control Plan and upon proof of financial duress, the local, county, or state enforcement agency could apply Plan deadlines in place of other unit-trigger requirements or deadlines for LBP hazard control requirements. This approach provides early protection of children at risk and enables the staging of financing to make all units lead-safe.

F. Registry Of Lead-Safe Housing

As Certificates of Lead Safety are issued, they should be recorded in a central Registry of Lead-Safe Housing, established in an appropriate local or state agency. Such Registry could be used as a repository for other relevant documents as well (e.g. inspection and risk assessment reports and LBP hazard control enforcement orders). The Registry could serve several purposes. First, the Registry would have great utility in matching families with young children to lead-safe units and in coordinating subsidy programs. Second, it would provide an important and useful mechanism for tracking and focusing enforcement efforts. Third, the Registry could serve as a data source for community organizations, planning offices, and others interested in identifying neighborhoods with special needs. Finally, lenders, insurance providers, appraisers, real estate agents, and others seeking information on the lead-safe status of particular units would also find the Registry helpful.

## CHAPTER VII
## THE NEED FOR IMMEDIATE PRIVATE SECTOR PARTICIPATION

As important as public sector enforcement, subsidy, and matching strategies are, the U.S. housing stock will not be made lead-safe within a reasonable period unless private sector forces are engaged to motivate action throughout the market. In fact, the majority of units will respond fully to private sector forces.

### A. Insurers

Because the great majority of target housing units in the U.S. are covered by liability insurance, insurers have tremendous leverage in encouraging owners to make housing units lead-safe. Liability insurers need to be part of the solution. They must recognize that compliance with the requirements for LBP hazard control greatly reduces the risk of poisoning and makes these risks controllable and predictable.

Building upon the structure this Framework For Action establishes, insurers should avoid using absolute lead exclusions in liability policies, except when a property owner has failed to take appropriate LBP hazard evaluation and control measures. Otherwise, attempts to write absolute exclusions for lead poisoning into liability policies forfeit the insurer's positive role and may produce the perverse effect of discouraging landlords from investing in efforts to control LBP hazards.

Insurers should request copies of Certificates of Lead Safety as a prerequisite for insuring target housing units already subject to LBP hazard control requirements. ***Units with a valid Certificate deserve liability coverage for lead poisoning under standard policies and as part of the normal policy premium.*** Should a child living in such a unit be identified as lead poisoned, insurers of units with valid Certificates should prepare to undertake their duty to defend the owner. The Certificate should be admissible in court as evidence of the owner's good faith efforts to fulfill the relevant standard of care. Such evidence constitutes a powerful tool that serves to establish a presumption of non-negligence on the part of the policy holder.

Insurers may also wish to develop special riders (at surcharge premiums) for units which have not yet undergone LBP hazard controls but which can be shown to comply with all Essential Maintenance Practices. In such cases, insurers may find it advantageous to have their own staff trained and licensed as risk assessors to evaluate units (especially in multi-family buildings) which seek such liability coverage.

B. Lenders

Lenders have a responsibility, as well as a vested interest, to ensure that target housing units which they finance are made lead-safe. ***Upon origination of mortgages and home improvement loans, lenders should demand evidence of compliance with LBP hazard control requirements, including a current Certificate of Lead Safety.***

Lenders should develop standard loan products and procedures to make it possible for purchasers to roll abatement costs into first mortgages as well as for owners to secure home improvement loans for LBP abatement.

Lenders should explore with HUD the changes necessary to access FHA Title I Home Improvements Loans for LBP hazard abatement. Lenders can also educate owners on the advantages of integrating LBP hazard abatement into home improvement projects.

Finally, secondary mortgage market mechanisms are needed to expand the availability of financing for LBP hazard abatement projects.

C. Appraisers

Lending and finance systems will only operate effectively if the marketplace recognizes that LBP hazards affect a target housing unit's value and marketability. Education and training must focus on LBP hazards and control requirements as part of the appraiser licensing process. In making site visits to appraise properties, appraisers should seek to identify conditions which suggest LBP hazards. ***In calculating property valuations, appraisers should factor-in the added value of lead-safety and/or the lower value of properties which pose LBP hazards.*** For all target housing units, appraisers should request a copy of the Certificate of Lead Safety. FHA appraisals provide an additional enforcement lever to require repairs needed to make a unit lead-safe.

D. The Judicial System

The judicial system is already driving LBP control activities in some areas. As progress towards universal screening identifies more poisoned children, litigation is likely to become an even stronger force. The manner in which litigators and the courts react to this Framework For Action will determine, in large part, the extent of behavior changes by property owners and insurers.

Tort litigation, while primarily designed to compensate those already damaged by LBP hazards, should also serve to promote prevention by encouraging owners to meet prescribed standards of care in order to obtain insurance and help avoid

liability. ***Judges and juries should consider this Framework For Action, as well as any local and state ordinances and laws implementing it, as an authoritative source for the definition of "standard of care."*** Failure to take LBP hazard control actions in a timely manner as required under the Framework should be considered "negligence per se." Conversely, documented compliance should be admissible as a defense. In particular, Certificates of Lead Safety issued by licensed risk assessors/inspectors should, like government agency inspection documents, be admissible as prima facie evidence of the facts stated therein.

Litigation can also play an important role in ensuring that the duties defined in this Framework are carried out by property owners. Courts should be a forum for prompt resolution of actions brought by government agencies to enforce relevant aspects of housing and building codes, and local and state lead laws and ordinances. In addition, tenants should be able to enforce such duties through contract actions (e.g. warranty of habitability), citizen suits, and actions available under local principles of landlord-tenant law.

## CHAPTER VIII
## PARTNERSHIPS FOR PREVENTION

The legal duties for property owners with respect to LBP and LBP hazards have been and will continue to be defined through several avenues. The duties imposed by federal legislation are expanded by this Framework's requirements for LBP hazard evaluation and control, which must ultimately be implemented through state, county, and local laws, ordinances, and regulations.

Preventing childhood lead poisoning, however, requires cooperative and collaborative efforts -- beyond legal requirements -- among a broad range of public sector and private sector parties. The following delineation of roles and responsibilities is intended to identify the elements of the ***new partnership needed to prevent childhood lead poisoning.***

A special note is in order about the role of parents and tenants. Too often in the past, a "blame the victim" syndrome has worked to place responsibility on parents and tenants for situations beyond their control. *The summary that follows is not intended to create new legal duties for tenants or parents.*

### A. State, County, and Local Governments

1. Enact Laws and Ordinances
    a. Housing and Building Codes Which Include Essential Maintenance Practices
    b. Requirements for Lead-Safe Housing
    c. Abatement Contractor Certification and Licensing
    d. Risk Assessment and Inspector Certification and Licensing
    e. Provide for Certificates of Lead Safety
2. Enforce Requirements for Lead Hazard Evaluation and Control
3. Ensure Safe Remodeling and Renovation Through Permitting Programs
4. Enforce Fair Housing and Anti-Retaliation Laws
5. Expand and Focus Subsidy Programs
6. Establish Registry of Lead-Safe Units
7. Match Lead-Safe Homes and Families with Children
8. Provide Case Management Services to Poisoned Children
9. Identify Emergency LBP Hazard Zones
10. Provide Public Education on Lead Safety
11. Oversee Quality Control of Private Inspectors, Risk Assessors, and Contractors
12. Assist Community-Based Contractors to Establish Themselves in Low- and Moderate-Income Communities

B. Landlords

1. Comply with All Building and Housing Codes
2. Provide Lead Hazard Information Pamphlet to Tenant
3. Adhere to Essential Maintenance Practices
4. Respond Promptly to Tenant Notification of Potentially Hazardous Conditions
5. Observe Triggers for LBP Hazard Evaluation and Control
6. Hire Licensed Professionals as Required
7. Make Target Housing Units Lead-Safe by Passing Clearance Tests After:
   a. Abatement of LBP Hazards,
   b. Risk Assessment/Interim Controls, or
   c. Standard Interim Controls
8. Conduct Ongoing Monitoring (and Hazard Control as Needed) to Maintain Valid Certificate of Lead Safety

C. Tenants

1. Provide Landlord and Agent Access to Unit as Needed
2. Notify Owner and Enforcement Agency of Deteriorated Paint or Other Potentially Hazardous Conditions
3. Perform Housekeeping to Control Dust on Surfaces Landlord has Made Smooth and Cleanable

D. Parents

1. Get Blood Lead Test Regularly for Young Children
2. Provide Good Nutrition and Hygiene
3. Do Not Undertake "Do-It-Yourself" Abatements or Dangerous Renovation Activities
4. Use Precautionary Measures With Lead At Job or As Hobby

E. Lead Trainers

1. Obtain Accreditation to Conduct Training from State Agency or EPA
2. Produce Up-To-Date Curricula to Train LBP Inspectors, Risk Assessors, Supervisors, Contractors, Workers, Designers, and Planners
3. Conduct Courses for these Individuals, upon Successful Completion of which Appropriate Credentials are Issued
4. Update Certified Individuals Periodically with Relevant Continuing Education Materials

F. Risk Assessors

1. Identify LBP Hazards and Their Sources
2. Advise Owner of LBP Hazard Control Requirements and Options
3. Administer Clearance Tests
4. Issue Certificates of Lead Safety and Provide Copy to Registry of Lead-Safe Housing
5. Develop Plan for Implementing LBP Hazard Control Measures Throughout All Units Owned by Eligible Owner of Multiple Units

G. Inspector Technicians

1. Identify Presence of LBP
2. Prepare Report and Deliver to Owner
3. Administer Clearance Tests
4. Issue Certificates of Lead Safety and Provide Copy to Registry of Lead-Safe Housing

H. Contractors, Supervisors and Workers

1. Obtain Appropriate Training and Licensing to Perform LBP Activities
2. Provide Necessary Credentials to Employer prior to Start of Work
3. Implement Appropriate Worker and Occupant Protection Measures
4. Ensure that LBP Hazard Control Measures are Properly Undertaken in Accordance with Hazard Evaluation Report or other Relevant Authoritative Instructions
5. Clean Unit to Pass Clearance Tests, prior to Occupancy

I. Lenders

1. Structure Loans to Ensure Owner Obtains Certificate of Lead Safety
2. Include Abatement Costs in Mortgages
3. Develop Loan Products to Help Owners Carry Out LBP Hazard Abatement
4. Require Clearance Testing at the Conclusion of Projects Financed by Home Improvement Loans
5. Develop Secondary Mortgage Market Mechanisms to Expand the Availability of Financing for LBP Hazard Abatement

J. Appraisers

1. Receive Training on LBP Hazards as Part of Licensing Process
2. Examine LBP Hazards When Appraising Properties
3. Request Copy of Certificate of Lead Safety for All Target Housing Units Being Appraised
4. Recognize Added Value of Lead-Safe Units

K. Insurers

1. Require Compliance with Essential Maintenance Practices
2. Require Compliance with Triggers for LBP Hazard Control
3. Demand Current Certificate of Lead Safety
4. Provide Coverage to Units in Compliance as part of Standard Liability Policy
5. Provide Coverage to Licensed Contractors at Reasonable Rates
6. Develop Special Riders to Cover Units Without Certificates which Follow Essential Maintenance Practices

L. Real Estate Agents

1. Ensure Disclosure of Known LBP Hazards During Sale Negotiations
2. Distribute Lead Hazard Information Pamphlets to Potential Purchasers and Lessees
3. Inform Potential Purchasers of Their Right to Obtain a Risk Assessment or Inspection Prior to Purchase
4. Educate Home Owners, Renters, and Purchasers on the Potential Health Threats Posed by LBP, and on the Essential Maintenance Practices and the LBP Hazard Control Requirements
5. Take Existence of Lead-Safe Certificate and, Conversely, the Lack of such Certificate into account in Helping Buyer and Seller Arrive at True Market Value of Unit

M. Judicial System

1. Enforce, as Priority Matters, Housing and Building Code and Local Lead Laws and Ordinances
2. Provide Tenants with a Forum for Self-Enforcement of Owners' Duties Through Warranty of Habitability, Citizen Suit, and Other Actions
3. Use the Framework and Implementing Ordinances and Laws in Defining the Tort Standard of Care
4. Admit Certificates of Lead Safety Issued by Licensed Evaluators as Prima Facie Evidence of the Facts Stated Therein

## APPENDIX A

### MEMBERS OF TECHNICAL ADVISORY COMMITTEE

The following individuals provided input by sharing their views, their experience, and their expertise with the authors of this Framework at various points throughout the period from January to June, 1993. Their participation in this process does not necessarily imply agreement with any particular part of this document, nor is this listing intended as an endorsement of the Framework. Organizational affiliations are provided for identification purposes only.

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## APPENDIX B

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